Filed 12/11/08 In re G.C. CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re G.C. et al., Persons Coming Under the Juvenile Court Law.	B207338 (Los Angeles County Super. Ct. No. CK41266)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. L.C., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Emily A. Stevens, Judge. Dismissed in part; reversed in part; and remanded.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Raymond G. Fortner, Jr., Los Angeles County Counsel, and Jacklyn K. Louie, Senior Deputy Counsel, for Plaintiff and Respondent.

The mother appeals from an April 21, 2008 dispositional order denying her reunification services. The mother purports to appeal from the order denying reunification services as to *three* children, E.C., G.C., and M.C. But on the date in question, April 21, 2008, the juvenile court denied reunification services as to *two* children only, G.C. and M.C., having previously denied such services as to E.C. The order denying the mother reunification services as to E.C. was entered on May 1, 2007. The present notice of appeal was filed on April 21, 2008, more than 60 days after the juvenile court denied the mother reunification services as to E.C. Hence the present appeal is not a timely appeal from the order denying reunification services as to E.C. (Cal. Rules of Court, rules 5.585(f), 8.400(d).) And we have no jurisdiction to entertain an appeal from the order denying reunification services as to E.C. (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 696; *Adoption of Alexander S.* (1988) 44 Cal.3d 857, 864.)

The mother contends the Department of Children and Family Services (department) failed to comply with the Indian Child Welfare Act (25 U.S.C. § 1912(a)). The department concedes the notices it issued did not meet the requirements of the Indian Child Welfare Act. We concur in that assessment. This matter must be remanded for the sole purpose of complying with the Indian Child Welfare Act. (See *In re Brooke C.* (2005) 127 Cal.App.4th 377, 384-385; *In re Miguel E.* (2004) 120 Cal.App.4th 521, 549-550; *In re Karla C.* (2003) 113 Cal.App.4th 166, 174-176.)

The department does not oppose remand for the limited purpose of compliance. The department argues, however, that the order should be affirmed and remanded (*In re Veronica G.* (2007) 157 Cal.App.4th 179, 187-188 [Indian Child Welfare Act notice error subject to limited remand without reversal of jurisdictional order]; *In re Brooke C., supra,* 127 Cal.App.4th at pp. 384-386 [same as to order denying reunification services]; but see *Nicole K. v. Superior Court* (2007) 146 Cal.App.4th 779, 781, 784-785 [disagreeing with *Brooke C.*]) rather than reversed and remanded. We disagree. The present appeal involves reversible error—the failure to present substantial evidence of

compliance with the Indian Child Welfare Act. (*In re Marinna J.* (2001) 90 Cal.App.4th 731, 736-740; *In re Desiree F.* (2000) 83 Cal.App.4th 460, 471-472.) The appropriate course of action is to conditionally reverse the challenged order. If no tribe asserts that the two children are of Native American descent, the order denying reunification services as to G.C. and M.C. is to be reinstated.

The purported appeal from the May 1, 2007 order denying the mother reunification services as to E.C. is dismissed. The April 21, 2008 order denying reunification services as to G.C. and M.C. is reversed. The cause is remanded for the sole purpose of complying with the Indian Child Welfare Act as to G.C. and M.C.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

MOSK, J.